

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Zachary Herman	Team: Squad #11	CCRB Case #: 201806498	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 07/29/2018 12:39 PM	Location of Incident: In front of § 87(2)(b)	Precinct: 43	18 Mo. SOL 1/29/2020	EO SOL 1/29/2020	
Date/Time CV Reported Sun, 07/29/2018 12:39 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/09/2018 11:12 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Sean Odwyer	18223	922905	043 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT April McLaine	01010	948027	043 PCT
2. POF Maile Lopez	18612	958833	043 PCT
3. POM John Kaiser	10466	954989	043 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Sean Odwyer	Abuse: Police Officer Sean O'Dwyer did not obtain medical treatment for § 87(2)(b)	

### Case Summary

On July 29, 2018, at 12:39pm, § 87(2)(b) called IAB and filed this complaint, generating original IAB log #18-29545. The CCRB received this complaint on August 9, 2018.

On July 29, 2018, at approximately 12:30pm, § 87(2)(b) called the police and alleged that her boyfriend had stabbed her in the foot inside of § 87(2)(b), in the Bronx. PO Sean O'Dwyer, PO John Kaiser, PO Maile Lopez, and Sergeant April McClaine of the 43<sup>rd</sup> Precinct responded to the scene. § 87(2)(b) alleged that PO O'Dwyer refused to request medical assistance for her to be evaluated by medical personnel due to the injury she had sustained (**Allegation A: Abuse of Authority**, § 87(2)(g)).

Body-worn camera footage from PO O'Dwyer, PO Kaiser, PO Lopez, and Sgt. McCailline as part of the investigation provided for the substantive investigation of this complaint.

### Findings and Recommendations

#### **Allegation (A) Abuse of Authority: Police Officer Sean O'Dwyer did not obtain medical treatment for § 87(2)(b)**

Since this case was received by the investigation, numerous contact attempts were made to obtain a statement from § 87(2)(b). These

Between August 13, 2018 and August 27, 2018, three letters were sent to the listed address for § 87(2)(b). None were returned by the United States Postal Service as undeliverable. On September 14, 2018, this case was reassigned to the undersigned from Investigator Scott Carlton due to Investigator Carlton's departure from the CCRB. Between September 14, 2018, and October 3, 2018, nine calls were placed to § 87(2)(b)'s mother, who initially stated that § 87(2)(b) did not have a phone, and would have to be contacted directly. Additional calls were placed to phone numbers provided by § 87(2)(b)'s mother. No statement was obtained from § 87(2)(b) pertaining to this case.

PO O'Dwyer testified that he responded to the scene when he marked the call, at approximately 2:00pm. When he arrived at the scene, he observed § 87(2)(b) outside, pointing to a wound on her leg. PO O'Dwyer and his partner, PO Kaiser, approached § 87(2)(b). The wound on her leg did not appear to be fresh, as it was not bleeding and the blood was dry. § 87(2)(b) alleged that her boyfriend had stabbed her with a broom handle. PO Kaiser stayed with § 87(2)(b) while PO O'Dwyer proceeded upstairs to speak with § 87(2)(b)'s boyfriend. PO O'Dwyer spoke with the boyfriend, who informed him that § 87(2)(b) had kicked in his skylight the night before. The boyfriend showed PO O'Dwyer the skylight. PO O'Dwyer observed dried blood in the area around the skylight, and shards from the skylight consistent with the type of wound on § 87(2)(b)'s leg. PO O'Dwyer stated he believed either himself or PO Kaiser went over the radio to request an ambulance, but did not specifically recall who requested it. PO O'Dwyer did not refuse to obtain medical treatment for § 87(2)(b) (BR11).

Event chronology indicates that Response Auto 2 arrived on scene at 1:46pm. At 2:05pm, § 87(2)(b) is noted as stating she did not need medical treatment. At 2:06pm, an ambulance is called for § 87(2)(b). At 2:14pm, an EMS unit is noted to be on-scene (BR08).



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Body worn camera footage from PO Maile Lopez shows § 87(2)(b) inside an FDNY ambulance, speaking with Sgt. McClaine, with an EMT present. Sgt. McClaine speaks to § 87(2)(b) regarding her injuries and makes inquiries regarding possible witnesses, the EMT contributes an observation regarding the nature of § 87(2)(b)'s injury (BR02).

§ 87(2)(g)  
[Redacted text block]

#### Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (BR10).
- PO O'Dwyer has eight CCRB complaints against him with fourteen charges. None have been substantiated.

#### Mediation, Civil and Criminal Histories

- § 87(2)(b) was not offered mediation in this case because she was not successfully contacted.
- A FOIL request was filed with the Office of the New York City Comptroller on October 16, 2018. The results of this request were received on October 23, 2018. The results were negative (BR12).
- § 87(2)(b) has not been convicted of a crime in New York City (BR09).

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Squad No.: 11

Investigator: \_\_\_\_\_ Investigator Zachary Herman \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Title & Name

\_\_\_\_\_  
Date